

Remarks

This is in response to the Office Action mailed August 30, 2006. Reexamination and allowance of the subject application are respectfully requested.

Applicants thank the Examiner for recognizing the allowable subject matter of claims 13, 14, and 85.

New independent claim 90 has been added herein generally reciting the allowable subject matter of claim 14, and including the limitations of independent claim 12 upon which claim 14 depends. Support for this new claim can, therefore, be found in original claims 12 and 14, and in the disclosure on pages 63, line 14, through page 65, line 18, as well as in FIGS. 49-53. Accordingly, no new matter is believed entered. In view of the indication of the allowability of the subject matter of claim 14, new claim 90 incorporating the subject matter of claim 14 is believed to be allowable.

Claims 12 and 15-22 were rejected under 35 USC §102(b) as being anticipated by Moore et al. (RE 36,020).

Claim 12 has been amended herein to incorporate the allowable subject matter of claim 13, and for improved clarity. Claim 13 has been cancelled. Support for the amendments can be found in original claims 12 and 13 and in the disclosure on pages 63, line 14, through page 65, line 18, as well as in FIGS. 49-53. As such, no new matter is believed entered. In view of the Examiner's indication of the allowability of claim 13, amended claim 12 incorporating the subject matter of claim 13 is believed to be allowable. Withdrawal of this rejection is, therefore, respectfully requested in view of the amendments herein.

Independent claim 22 has been amended herein to better define the claimed device. Particularly, independent claim 22 has been amended to recite the arms of the inner and the outer shaft extend radially outwardly relative to the longitudinal axis and that each of the arms comprise a contact portion configured to contact the articular surface. The features of amended claim 22 are described on pages 63, line 14, through

65, line 18, and are depicted in FIGS. 49-53. Accordingly, no new matter is believed entered.

As amended herein, in claim 22 Applicants claim:

22. A guide device for locating a working axis substantially normal with respect to an articular surface of bone, said device comprising:

a cannulated outer shaft having a central longitudinal axis and comprising a set of arms extending radially outwardly relative to said longitudinal axis, each of said arms comprising a contact portion configured to contact said articular surface; and

a cannulated inner shaft slidably disposed within the cannula of said outer shaft, said inner shaft sharing the central longitudinal axis of said outer shaft, and said inner shaft comprising a set of arms extending radially outwardly relative to said longitudinal axis, each of said arms comprising a contact portion configured to contact said articular surface. (Emphasis added)

Moore et al. teach a device including a cannula (10) having a handle (12) and a drill guide (24), including two generally parallel bores (26, 28), which may be inserted in the cannula (10). See, e.g., Col. 2, l. 35-49, and FIG. 1. In contrast to amended claim 22, the handle (12) associated with the cannula (10), which has been asserted to correspond to the claimed arm, does not include “a contact portion configured to contact said articular surface.” Applicants also note that amended claim 22 requires “a set of arms” associated with the outer shaft, but Moore et al. teach only a single handle (12) extending from the cannula (10). Furthermore, the drill guide (24) disclosed by Moore et al., and asserted to correspond to the claimed inner shaft, does not include a single arm, let alone “a set of arms” in which “each of said arms compris[es] a contact portion configured to contact said articular surface.

In view of the foregoing differences, Applicants respectfully submit that Moore et al. fail to teach, or even suggest, every feature of independent claim 22 as amended herein. Withdrawal of the rejection of claim 22 is respectfully requested in view of the amendments herein.

Claims 81-84 and 86-89 were rejected under 35 USC §102(e) as being anticipated by Mac Arthur (US 6,342,075). Independent claim 81 has been amended herein to incorporate the allowable subject matter of claim 85, which has accordingly been cancelled. In view of this amendment and the Examiner's indication of the allowable subject matter of claim 85, amendment independent claim 81, and claims 82-84 and 86-89 ultimately depending thereupon, are now believed to be allowable over Mac Arthur. Withdrawal of this rejection is respectfully requested in view of the forgoing amendment.

All of the outstanding rejections are believed to be overcome in view of the amendments and remarks herein. Early allowance of the subject application is respectfully requested.

In the event of any fee deficiencies, or that additional fees are payable, please charge our Deposit Account No. 50-2121 as necessary.

Respectfully Submitted:

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